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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,001	03/16/2005	Katsumi Matsumoto	11A 3689 PCT	9585
3713	7590	08/08/2007		
KODA & ANDROLIA 2029 CENTURY PARK EAST SUITE 1140 LOS ANGELES, CA 90067			EXAMINER MORAN, KATHERINE M	
			ART UNIT 3765	PAPER NUMBER
			MAIL DATE 08/08/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/526,001

Applicant(s)

MATSUMOTO ET AL.

Examiner

Katherine Moran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,11-14,20,24 and 26-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,11-14,20,24 and 26-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/11/07 has been entered. Claims 1, 11-14, 20, and 26-28 have been amended, claims 3-10, 15-19, 21-23, and 25 have been cancelled, with claims 1, 2, 11-14, 20, 24, and 26-28 pending. A replacement drawing sheet for Figure 10 was submitted on 4/12/07.

### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities: claim 1 recites a pair of belts...line 6: delete "each of said pair of belts" and insert --each of said belts--, line 8: delete "the belt" and insert --each belt--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1, 2, 11-14, 20, 24, and 26-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites "a fastening

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mechanism provided between an other end of each of said pair of belts and each end of said eye cup portion". However, this recitation does not accurately describe the location of the fastening mechanism. Applicant's specification and drawings set forth the fastening mechanism having complementary portions provide both at an end of the eye cup portion and at an end of the respective belts. As shown in Figures 8 and 10, the fastening mechanism is not provided between ends of the belts and the eye cup portions. Also, claim 1 recites that the fastening mechanism of the belt with the eye cup portion formed with the hard portion. This is unclear because what structure is denoted by the recitation of "fastening mechanism of the belt with the eye cup portion"? A suggested change is to recite that each belt has a first end and a second end, with the first ends provided with the connecting/disconnecting mechanism and the second ends provided with hard portions. Also, claim 1 recites an eye cup portion. However, the drawings illustrate 2 eye cup portions with a pair of belts. Each belt is respectively connected to respective ends of the eye cup portion.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 11, 12, 20, 24, and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsubooka et al. (Tsubooka, U.S. 6,460,196) in view of Wu et al. (Wu,

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U.S. 6,092,243). Tsubooka discloses the invention substantially as claimed. Tsubooka teaches a pair of swimming goggles comprising an eye cup portion 1 for protecting the user's eyes, and a pair of belts 2 respectively connected to the eye cup portion. The eye cup portion 1 is provided with projections 11B on respective ends and the belt includes corresponding holes 12A so that the belt and eye cups can be connected together. The belts 2 include fastening mechanisms provided between an end of each of the belts and each end of the eye cup portion. Each belt has a hard portion and soft portion, with the belt's end portion fastening mechanism formed from polycarbonate (attested to as a known hard material in Applicant's specification) material 7, and the belts formed from comparably soft and stretchable elastomer. However, Tsubooka does not teach a connecting/disconnecting mechanism provided on the pair of belts for connecting and disconnecting an end of each of the belts together. Wu teaches goggles with a pair of belts 10 having connecting/disconnecting mechanism 13 of a hook-type. This arrangement allows for individual adjustment of each belt for customized fit to the wearer's head. Regarding claim 26, elastomeric material and polycarbonate material are both considered to be thermoplastic polymers. Thus, they are made from the same material. Regarding claim 28, the entire length of the pair of belts is predetermined by adjusting a length of each of the pair of belts between the connecting/disconnecting mechanism and the eyecup portion. It is noted that claim 28 does not recite additional structure for performing the claimed function. Accordingly, Tsubooka as modified by Wu is capable of performing the recited function and thus meets the claim. Therefore, it would have been obvious to provide Tsubooka with the pair of belts connecting by a

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mechanism as taught by Wu, so that each belt may be individually adjusted and so that the fit of the belts can be customized to the wearer's head size.

7. Claims 2, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsubooka in view of Wu as applied to claim 1 above, and further in view of Lutz (U.S. 5,611,644). Tsubooka discloses the invention substantially as claimed. However, Tsubooka doesn't teach that a back portion of the belt which fits to the user's occipital region is made wider and side portions of the belt which fit to the user's temporal region are made narrower. Lutz teaches goggles with a strap 16 having a back belt portion 32 made wider and side belt portions 34 made narrower as shown in Figure 1. The wider portion provides a larger surface area to rest against the wearer's head, thus providing a larger frictional surface area. Therefore, it would have been obvious to form Tsubooka's belt with wider back portions and narrower side portions in order to provide a more secure belt structure.

### ***Response to Arguments***

8. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection necessitated by Applicant's amendment.

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Katherine Moran at (571) 272-4990. The examiner can be reached on Monday-Thursday from 8:30 am to 6:00 pm, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch, may be reached at (571) 272-4996. The official and after final fax number for the organization where this application is assigned is (571) 273-8300. General information regarding this application may be obtained by contacting the Group Receptionist at (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kmm

August 6, 2007

A handwritten signature in black ink, appearing to read 'K Moran', with a long horizontal flourish extending to the right.

Katherine Moran

Primary Examiner, AU 3765